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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,948	09/08/2003	Kailash C. Vasudeva	PAT 51403A-2	9002

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CANADA

EXAMINER


RODRIGUEZ, RUTH C

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

 Office Action Summary	Application No. 10/656,948	Applicant(s) VASUDEVA, KAILASH C.	
	Examiner Ruth C Rodriguez	Art Unit 3677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-31 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-22 and 27-31, drawn to an automotive exhaust flange or a flange, classified in class 285, subclass 405.
- II. Claim 23, drawn to a method of manufacturing an exhaust flange, classified in class 29, subclass 890.08.
- III. Claim 24, drawn to a method of manufacturing an exhaust flange, classified in class 29, subclass 890.08.
- IV. Claim 25, drawn to a method of manufacturing an exhaust flange, classified in class 29, subclass 890.08.
- V. Claim 26, drawn to a method of manufacturing an exhaust flange, classified in class 29, subclass 890.08.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II-V are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process

(MPEP § 806.05(f)). In the instant case, the product as claimed can be made by a materially different process, such as molding or casting instead of using stamping.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention:

For invention I:

Species I – Exhaust flange assembly having inner and outer flanges

Sub-species 1 - Figs. 1-3 and 7-11, Exhaust flange assembly having inner and outer flanges where one of the flanges have an integral threaded member.

Sub-species 2 - Figs. 4-6, Outer exhaust flange with reinforcing ribs.

Sub-species 3 - Figs. 12-14, Outer exhaust flange with through holes to lighten the flange.

Sub-species 4 - Figs. 15-23A and 39A-42, Exhaust flange assembly having inner and outer flanges with mating surfaces at a location where both flanges meet and an extension on a location opposite where the flanges meet in order to cooperate with the exhaust pipe.

Sub-species 5 - Fig. 23B, Exhaust flange assembly having inner and outer flanges with mating surfaces at a location where both flanges meet, an extension on a

location opposite where the flanges meet in order to cooperate with the exhaust pipe and a concave recess to accept a fastening means.

Sub-species 6 - Figs. 24 and 25, Outer exhaust flange with raised areas between mounting studs.

Sub-species 7 - Fig. 47, Exhaust flange assembly having inner and outer flanges with mating surfaces at a location where both flanges meet, an extension on a location opposite where the flanges meet in order to cooperate with the exhaust pipe and a stand-off provided to receive and support a fastening means.

Sub-species 8- Figs. 48A and 48B, Outer exhaust flange with a two piece construction by having a separate sealing part.

Sub-species 9 - Fig. 63-67, Exhaust flange assembly having inner and outer flanges with mating surfaces and a spacer at a location where both flanges meet.

Sub-species 10 - Figs. 53 and 54, Exhaust flange assembly having inner and outer flanges with an angled exhaust pipe in between the flanges where each flange has a recess to receive the exhaust pipe.

Sub-species 11 - Figs. 55 and 56, Exhaust flange assembly having a single flange provided with a recess that receives an exhaust pipe at an angle.

Sub-species 12 - Figs. 57 and 58, Exhaust flange assembly having a single flange with an inlet at a different angle than an outlet and receiving an exhaust pipe at 90 degree with respect to the outer surface of the flange.

Sub-species 13 - Figs. 59 and 60, Exhaust flange assembly having a single flange with a recess receiving an angled portion having a mating outer surface

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corresponding to the outer surface of the flange and a slanted outer surface where an exhaust pipe is received by the slanted surface with the exhaust pipe being at an angle with respect to the flange.

Sub-species 14 - Figs. 61 and 62, Exhaust flange assembly having a single flange with an inlet at a different angle than an outlet and receiving an exhaust pipe at an angle with respect to the outer surface of the flange

Species II – Exhaust flange having a gasket

Sub-species 1 - Figs. 26-34 and 43A-46, Exhaust flange assembly having inner and outer flanges with a gasket disposed in between the flanges where both flanges have a recess that correspond respective mating surfaces of the gasket.

Sub-species 2 - Figs. 35 and 36, Exhaust flange assembly having inner and outer flanges with a gasket disposed in between the flanges where both flanges have a recess that correspond respective mating surfaces of the gasket and both flanges have a mating surfaces at a location where both flanges meet.

For invention II, Method of making the exhaust flanges:

Species 1 - Method comprising the steps of pre-sintering the sealing part, sintering the sealing part and the back plate and assembling the back plate and sealing part to form the flange.

Species 2 - Method comprising the steps of sintering the sealing part, assembling the back plate and the sealing part and welding the back plate to the sealing part to form the flange.

Specie 3 - Method comprising the steps of separately pre-sintering the sealing part and the back plate, assembling the sealing part and the back plate and sintering the back plate and the sealing part to form the flange.

Species 4 - Method comprising the steps of sintering the back plate and the sealing part to form the flange.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic for species II, sub-species 1 and 2; claim 6 is generic for species I, sub-species 5 and 7; and claim 12 is generic for species I, sub-species 4 and 7.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record

showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth C Rodriguez whose telephone number is (703) 308-1881. The examiner can normally be reached on M-F 07:15 - 15:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115.

Submissions of your responses by facsimile transmission are encouraged. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase the patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as PTO's mailroom processing and delivery time. For a complete list of correspondence **not** permitted by facsimile transmission, see MPEP § 502.01. In general, most responses and/or

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP § 512). The following is an example of the format the certification might take:

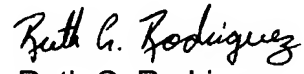
(Typed or printed name of person signing this certificate)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP § 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response has been transmitted by facsimile will cause further unnecessary delays in the processing of your application, duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Ruth C. Rodriguez
Patent Examiner
Art Unit 3677

rcr
February 22, 2005